

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Small Domestic Use Certificate R762 (Application D031765R)

John W. Cowan and Jane S. Cowan

ORDER OF CORRECTION

SOURCE: Nelson Creek tributary to Dry Creek thence South Fork Cottonwood Creek

COUNTY: Tehama

WHEREAS:

1. Certificate No. R762 was issued to John W. Cowan and Jane S. Cowan on May 27, 2009, pursuant to Application D031765R.
2. On June 3, 2009, the Division of Water Rights (Division) became aware of a typographical error regarding the season of diversion within Paragraph 5 of Certificate R762. Based on the Small Domestic Use Registration Application D031765R, the requested season of diversion was from January 1 to February 28 of each year, a diversion season of two months.
3. The Division has determined that Paragraph 5 of Certificate R762 shall be corrected.
4. The Division has determined that said correction in the season of diversion within Paragraph 5 does not constitute an initiation of a new right; does not injure prior rights or the public trust resources of the State, and that good and sufficient cause has been shown for said correction.

THEREFORE, IT IS ORDERED:

Paragraph 5 in Certificate R762 shall read as follows:

Quantity and Season: The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3.1 acre-feet per annum to be collected from January 1 to February 28 of each year. The capacity of the reservoir shall not exceed 3.1 acre-feet which is the stated capacity shown in the registration.

The total amount of water to be taken from the source shall not exceed 3.1 acre-feet per water year of October 1 to September 30.

STATE WATER RESOURCES CONTROL BOARD



for Victoria A. Whitney, Division
Deputy Director for Water Rights

Dated: **JUL 23 2009**

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

SMALL DOMESTIC USE REGISTRATION

CERTIFICATE NO. R762

Application D031765R of John W. Cowan
 Jane S. Cowan
 2610 Sulphur Springs Avenue
 St. Helena, CA 94574

filed with the State Water Resources Control Board (State Water Board) on **May 1, 2009** meets the requirements for registration of small domestic use specified in Article 2.7 (commencing with section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code. The appropriation is subject to the following conditions.

1. Source:

Nelson Creek

Tributary to:

Dry Creek thence

South Fork Cottonwood Creek thence

Cottonwood Creek thence

Sacramento River

within the County of **Tehama**.

| 2. Location of Point of Diversion: By California Coordinate System of 1983, Zone 1 | Point is within (40-acre subdivision) | Section | Township | Range | Base and Meridian |
|---|---|-----------|------------|-----------|----------------------|
| North 2,000,374 feet and East 6,322,277 feet | SW ¼ of SW ¼ | 35 | 29N | 9W | MD |

| 3. Purpose of Use: | 4. Place of Use: | Section | Township | Range | Base and Meridian | Acres |
|--------------------|---------------------|-----------|------------|-----------|----------------------|-------|
| DOMESTIC | SE ¼ of SW ¼ | 35 | 29N | 9W | MD | |

The place of use is shown on a map on file with the State Water Board.

5. Quantity and Season: The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3.1 acre-feet per annum to be collected from January 1 to February 28 of each year. The capacity of the reservoir shall not exceed 3.1 acre-feet which is the stated capacity shown in the registration.

The total amount of water to be taken from the source shall not exceed 3.1 acre-feet per water year of October 1 to September 30.

6. Appropriation of water pursuant to this registration shall be made in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, and quantity and season of diversion. This information is reproduced as conditions 1 through 5 of this certificate.
7. The appropriation registered herein shall be limited to the use of water in houses, resorts, motels, organization camps, campgrounds, and other similar facilities, including the incidental watering of domestic stock for family sustenance or enjoyment, the irrigation of not to exceed one-half acre of lawn, ornamental shrubbery, or gardens at any single establishment, and the human consumption, cooking, and sanitary needs at campgrounds or resorts. Also, any storage of water registered herein may include impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.
8. This appropriation is limited to the season of diversion specified in condition 5 herein. If such specified season is less than the actual season of need, an alternative supply of water, or other valid right, shall be utilized for all uses outside of the season registered herein.
9. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this registration, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
10. Registrant shall allow representatives of the State Water Board, and other parties as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms and conditions of this registration.
11. This appropriation is subject to prior rights. Registrant may be required to curtail diversion or release water stored during the most recent collection season should diversion under this registration result in injury to holders of legal downstream senior rights. If a reservoir is involved, registrant may be required to bypass or release water through, over, or around the dam. If release of stored water would not effectively satisfy downstream prior storage rights, registrant may be required to otherwise compensate the holders of such rights for injury caused.

12. If the registrant does not own the point of diversion, this registration shall not be construed as conferring upon the registrant right of access to the point of diversion.
13. To the extent that water available for use under this registration is return flow, imported water, or wastewater, this registration shall not be construed, as giving any assurance that such supply will continue.
14. Diversion works shall be constructed and water applied to beneficial use with due diligence.
15. No work shall commence and no water shall be diverted, stored or used under this certificate until registrant has received a stream or lake alteration permit from the California Department of Fish and Game. Compliance with the terms and conditions of the permit is the responsibility of the registrant. If a permit is not necessary for this project, the registrant should retain a written waiver from the California Department of Fish and Game.
16. In compliance with section 5937 of the Fish and Game Code, if storage or diversion of water under this registration is by means of a dam, registrant shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir.
17. The facilities for diversion under this registration shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Game.
18. No construction shall be commenced and no water shall be diverted under this registration until all necessary federal, state, and local approvals have been obtained, including obtaining and complying with any waste discharge requirements from the appropriate California Regional Water Quality Control Board.
19. This registration does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the registrant shall obtain authorization for an incidental take prior to construction or operation of the project. Registrant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this registration.

20. This registration is subject to the submittal of a report of water use and satisfactory renewal of the registration, on forms to be furnished by the State Water Board, including payment of the then-current renewal fees prior to the expiration of each five-year period following the date of first filing the completed registration.
21. The point or points of diversion and the place of use registered herein may be changed by filing a completed amended registration form with the State Water Board, including payment of the then-current registration fee. Such change shall not operate to the injury of any legal user of the water involved.
22. The appropriation registered herein shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.
23. The appropriation registered herein is subject to enforcement, including but not limited to revocation, by the State Water Board if 1) the State Water Board finds that the registrant knowingly made any false statement, or knowingly concealed any material fact, in the registration; 2) the registration is not renewed as required by the conditions of this certificate; or 3) the State Water Board finds that the registrant is in violation of the conditions of this registration.

Dated:

MAY 27 2009

STATE WATER RESOURCES CONTROL BOARD



Victoria A. Whitney
Division Chief



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Northern Region
601 Locust Street, Redding, CA 96001
<http://www.dfg.ca.gov>

ARNOLD S

WARZENEGGER, Governor
DONALD KOCH, Director

SSW



April 21, 2009

Mr. John W. and Mrs. Jane S. Cowan
2610 Sulphur Springs Avenue
St. Helena, California 94574

**Subject: Registration of a Small Domestic Use Appropriation on Nelson Creek,
Tributary to Dry Creek, Platina, Tehama County**

Dear Mr. and Mrs. Cowan:

Department of Fish and Game (DFG) personnel have reviewed your State Water Resources Control Board (SWRCB) application received April 14, 2009, for a Small Domestic Use Appropriation (SDU) on Nelson Creek. This is an existing diversion located on Nelson Creek, tributary to Dry Creek, in Tehama County. Water is piped by gravity flow from Nelson Creek to a storage pond and then piped from the pond to the ranch headquarters for domestic use. You have withdrawn your initial SDU application for which Certificate No. R750 dated August 22, 2008 was issued.

DFG personnel visited the site on February 7, 2008, and advised you that pursuant to Fish and Game Code §1600 *et seq.*, a lake or streambed alteration agreement (LSAA) would be required in order to divert water from Nelson Creek. Your LSAA (R1-08-0058) was prepared by Environmental Scientist Eda Eggeman and executed by DFG on March 25, 2009. This LSAA makes specific reference to your prior SDU certificate and will have to be amended. Please complete the enclosed *Request to Amend Lake or Streambed Alteration Agreement* and return with the specified fee to DFG at the letterhead address.

Because this is an off-stream storage pond of low capacity and the proposed season of diversion is a two-month period occurring during typically high flows, DFG is not placing a specific numerical bypass flow requirement on this small domestic facility. DFG provides the following condition in order for your project to avoid significant adverse environmental impacts:

1. Pursuant to Fish and Game Code §5937, the owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam.

Conserving California's Wildlife Since 1870

Mr. and Mrs. Cowan
April 21, 2009
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In order to complete the SDU registration process, please mail a copy of this letter together with your SDU registration to the State Water Resources Control Board, Division of Water Rights. If you have any questions please contact Environmental Scientist Eda Eggeman at (530) 225-2753.

Sincerely,



GARY B. STACEY
Regional Manager

Enclosure: Request to Amend Lake or Streambed Alteration Agreement

cc: State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, California 95812-2000

Ms. Eda Eggeman
Department of Fish and Game
601 Locust Street
Redding, California 96001-2711

ec: Mss. Donna Cobb, Eda Eggeman, Jane Vorpapel, and Jane Arnold
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